

<b>Item No.</b> 6.0	<b>Classification:</b> Open	<b>Date:</b> 18 Jan 2022	<b>Meeting Name:</b> Planning Committee
<b>Report title:</b>		Note of awards from the Elephant and Castle Relocation Fund	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Director of Planning and Growth	

## RECOMMENDATION

That Planning Committee:

1. Notes that 52 Traders have claimed £543,929.29 of the Elephant and Castle Relocation Fund, from a total of £647,835.84.
2. That there remains £103,906.55 from the Elephant and Castle Relocation Fund secured in the s106. This will be administered by the local economy team.

## BACKGROUND INFORMATION

3. Planning obligations under section 106 of the Town and Country Planning Act 1990 (“the Act”) are used to address the negative impacts caused by a development and contribute to providing infrastructure and facilities necessary to achieve sustainable communities. The council can enter into a legal agreement under s.106 of the Act with a developer whereby the developer agrees to provide planning obligations. These obligations can take the form of financial contributions and can cover a range of purposes.
4. In May 2017, cabinet agreed to require the developer of the Elephant and Castle Town Centre to implement a package of measures to support the relocation of and to mitigate the impact of the closure of the shopping centre on local traders and residents. This package has been developed further through the planning process and significant progress has been made in delivering a comprehensive offer to traders.

## Relocation Fund

5. A business Relocation Fund of £634,700 (CPI adjusted to £647,835.84) has been secured in section 106 contributions, against application 16/AP/4458, as part of the planning consent, to support businesses with their costs of relocation.
6. On 6 October 2021, Planning Committee approved the release of the full Relocation Fund, to be managed by the council through the Local Economy Team as part of the Chief Executive’s Office. Committee requested an update on spend after one year, which this provides.
7. The Relocation Fund is designed to be a contribution to eligible business’s reasonable costs of relocation. The fund is not designed to be a form of compensation, nor will it replace any statutory compensation due.

8. The Relocation Fund secured by the section 106 agreement represents a minimum guaranteed fund. In addition, the developer made clear at all-trader meetings on 10 Sept 2019 and 14 January 2020 that they are open to considering meeting additional relocation costs where the fund does not extend to cover all needs, and in the case of hardship.
9. 52 Traders have claimed £543,929.29 of the fund to date.
10. 56 of the 79 eligible independent businesses are relocated or in ongoing and final legal discussions.

### **Administration of the Relocation Fund**

11. The Elephant and Castle Town Centre section 106 agreement required the developer to fund a business support and relocation advisor to support traders, whose duties also included administering the Relocation Fund. Tree Shepherd (The Advisor) was contracted by the council to deliver this service in August 2017, and in accordance with the s.106 completed their contract in September 2021 (one year after the closure of the Shopping Centre).
12. The council will now administer the remaining Relocation Fund. At the end of Tree Shepherd's contract, there was £103,906.55 remaining in the secured Relocation Fund.

### **KEY ISSUES FOR CONSIDERATION**

#### **Eligibility**

13. Businesses able to claim from the fund are defined in the Elephant and Castle Town Centre section 106 agreement. In that agreement, eligible businesses are called 'Local Independent Operators'.
14. 'Local Independent Operators' are defined as all existing, independently-owned, retail businesses, traders, kiosk holders, restaurants, and market stall holders and charitable organisations on the East Site in the redline of the Elephant and Castle opportunity area that meet the three criteria below:
  - i. do not trade from more than 3 locations, and include restaurant operators, café operators and market stall holders;
  - ii. lawfully hold a lease or licence including so that any sub-letting or assignments have been with the approval of the developer or Network Rail (as appropriate);
  - iii. occupied any part of the East Site at the date of the resolution to grant Planning Permission (3 July 2018) and continued to occupy any part of the East Site at the date the Planning Permission was granted (10 January 2019).
15. These criteria apply to the Relocation Fund, and do not affect nor are they affected by any other grants or monies Elephant and Castle traders might receive from other sources.
16. Businesses could apply to the Relocation Fund from February 2020, for a period of one year following demolition of the Shopping Centre in the first instance. However, due to the railway arches on the East Site remaining occupied, a clause in the section 106

agreement has been triggered which stipulates the Relocation Fund shall continue to be available for a further six months.

17. The Relocation Fund is therefore available until April 2022.
18. Awards will be made to eligible traders who have not relocated according to the guidance originally sent to traders February 2020, and updated September 2021, which was developed following consultation with the trader panel and wider trader group on their priorities for allocating the fund.
19. There are registration, costings, and claim forms attached to the guidance.

### **Project management and monitoring**

20. Southwark Council, through the Local Economy Team as part of the Chief Executive's Office, has responsibility for managing the scope and payment from the Relocation Fund.

### **Community Impact Statement**

21. Key target groups are those who own and run independent businesses in the Elephant and Castle Shopping Centre. An Equalities Impact Assessment was conducted as part of the submission to Cabinet in May 2017, and the presentation to Planning Committee 3 July 2018, where the resolution to grant permission was given.
22. The mitigations described in this report follow from the recommendations of that Assessment.
23. In the case of this particular financial obligation, the Council was under a wider duty when considering the planning application as any decision needed to take into account the issues introduced by the Equality Act 2010.
24. The provision of the relocation fund was considered a key element in order for the Council to safeguard and promote the objectives protected by section 149 of the Equality Act as far as reasonably possible taking into account the proposed redevelopment which will undoubtedly bring about significant change. It should be noted that failure to take into account the provisions of the Equality Act was not one of the grounds of the legal challenge.
25. The Equality Act 2010 requires the Council in the exercise of its functions to have due regard to the need to:
  - a. eliminate discrimination;
  - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
26. In considering the recommendations herein the Cabinet must have due regard to the possible effects them on any groups sharing a protected characteristic in order to discharge its public sector equality duty. This is an ongoing obligation.
27. The Council should seek to avoid or minimise adverse equalities impacts.

28. Aecom's equalities updated report for the Elephant and Castle was concluded in December 2019 prior to the developer announcing closing the shopping centre.
29. It is clear that in Elephant and Castle a diverse range of businesses is serving a diverse range of customers.
30. Extra relocation space is being provided by the Council either directly at Perronet House or from planning agreements in the local area for independent traders from the shopping centre site. As also noted in the updated Aecom report, these locations are being built to offer additional space on top of what is available on local high streets. However, they do not provide enough space on their own for every trader to move there.
31. These allocations were made following an application process that took full regard for the diverse mix of traders in the Elephant and Castle.
32. It follows that those traders who are still relocating make up a similarly diverse mix.

### **Consultation**

33. The amounts secured for the Relocation Fund in the section 106 agreement came through the planning process and negotiation with the developer.
34. The trader panel has held a consultative role as well as a representational role during the implementation of the relocation strategy. The panels have been well attended and have addressed a number of issues connected with the relocation of traders.
35. Tree Shepherd ran four trader focus groups in August and September 2019 to get input into the criteria that should be used for assessing the applications, which was reported back to the panel and helped construct the process.
36. The panel members have helped the council and developer understand business's priorities for the application and administration process.

### **Resource implications**

37. This work will be managed by the Local Economy Team which has extensive experience of the development and ongoing work at the Elephant and Castle. Staffing and any other costs connected with this recommendation are to be contained within existing departmental revenue budgets.

### **Financial Implications**

38. Southwark council has been allocated a total of £647,835.84 from the s106 agreement associated with the Elephant and Castle Town Centre development (16/AP/4458). Out of this, £103,906.55 is available to spend.
39. Funds from the Elephant & Castle Relocation Fund have been allocated by the process set up in the guidance. Traders have until 24 April 2022 to claim their grant.
40. The funding mechanism for the E&C is set out in the guidance.

41. All staffing and other costs connected with this report will be contained within existing departmental revenue budgets.

### **Policy implications**

42. The projects meet the following Fairer Future Promises:

- Theme 2: A place to belong
- Theme 8: A vibrant Southwark

### **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

#### **Director of Law and Democracy**

43. *The Relocation Fund was secured as an s.106 obligation under the Elephant and Castle Shopping Centre s.106 Agreement as mitigation for the impacts upon the Local Independent Operators as defined under the s.106 Agreement. On 6 October 2020 a report was considered by Planning Committee for the release of £692,649.50 from the s.106 Agreement 16/AP/4458 to go towards the Relocation Fund and to pay the balance of payment to the Independent Business Advisor, Tree Shepherd. The report stated that the work relating to the release of the funds would be managed by the Local Economy Team which sits under the Director of Strategy and Economy.*

44. *Accordingly the award of these grants by the Director of Strategy and Economy is in accordance with the terms of the s.106 Agreement and the approval of the awards is consistent with paragraph 1 of Part 30 of the Council's Constitution.*

#### **Strategic Director of Finance and Governance**

45. *The strategic director of finance and governance notes that the costs related to the recommendations of this report will be covered from the S106 funds and external grant from developer.*

46. *Staffing and any other costs associated with this recommendation are to be contained within existing departmental budgets.*

## BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Planning Committee Report 6 October 2020	Constitutional	Virginia Wynn-Jones
Fund guidance 30 September 2021	Local Economy Team	Richard Pearce

## AUDIT TRAIL

<b>Lead Officer</b>	Stephen Platts	
<b>Report Author</b>	Richard Pearce, Senior Strategy Officer	
<b>Version</b>	Final	
<b>Dated</b>	18 January 2022	
<b>Key Decision?</b>	No	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments Included</b>
<i>Director of Law and Democracy</i>		
<i>Strategic Director of Finance and Governance</i>		
List other officers here		
<b>Cabinet Member</b>	No	No
<b>Date final report sent to Constitutional Team / Community Council / Scrutiny Team</b>		N/A